

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 05-80031

v.

Honorable John Corbett O'Meara

MARIO TAYLOR,

Defendant.

ORDER DENYING DEFENDANTS' PRETRIAL MOTIONS

This matter came before the court on defendant Mario Taylor's July 6, 2005 Motion for Pretrial Evidentiary Hearing on the Existence of a Purposeful Connection Between the Killing and any Qualifying Narcotics Transaction and defendant Antonio Taylor's December 1, 2005 Motion to Dismiss Indictment Based Upon Excessive Pre-Indictment Delay and/or Failure to Preserve Material Evidence. The government filed responses January 13 and 20, 2006; and oral argument was heard January 26, 2006.

Defendant Mario Taylor's motion, as the title implies, seeks a pretrial evidentiary hearing on the existence of a purposeful connection between the killing and a qualifying narcotics transaction. In support of the motion, Defendant cites a number of cases which delineate the legal requirements of a conviction. In addition, Defendant points to facts to support his contention that the government cannot prove the elements of the crime at trial. In essence, Defendant wants the court to first determine whether the government has proved every element of the crimes charged in the context of an evidentiary hearing before trial by a jury. This novel approach is unsupported by the law, including United States v. Garcia, 68 F. Supp. 2d (E.D. Mich. 1999), a case in which the district

court made a legal decision based on uncontested facts. Nothing in Garcia can be interpreted to require the government in this case to proffer evidence regarding how it intends to prove the charges against these defendants. Therefore, the court will deny the motion for evidentiary hearing.

ORDER

It is hereby **ORDERED** that defendant Mario Taylor's July 6, 2005 motion for a pretrial evidentiary hearing is **DENIED**.

It is further **ORDERED** that defendant Antonio Taylor's December 1, 2005 motion to dismiss the indictment is **DENIED** for the reasons set forth on the record January 26, 2006.

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Dated: February 21, 2006